

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARK CHANGIZI, *et al.*,

Plaintiffs,

v.

**DEPARTMENT OF HEALTH
AND HUMAN SERVICES, *et al.***

Defendants.

Case No. 2:22-cv-1776

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Chelsey M. Vascura

OPINION AND ORDER

This matter is before the Court on Plaintiffs’ Motion for Relief From Judgement Under Federal Rules of Civil Procedure 60(b) and Plaintiffs’ Motion for Leave File Supplement to their Rule 60(b) Motion. (ECF Nos. 42, 50.) These motions are fully at issue. (ECF Nos. 48, 49, 51.) Plaintiffs, however, have also filed two notices of appeal (ECF Nos. 43, 47) and this case is currently on the active docket of the United States Court of Appeals for the Sixth Circuit, Case No. 22-3573.

In this circuit, a “notice of appeal operates to transfer jurisdiction of the case to the court of appeals, and the district court is thereafter without jurisdiction to grant a motion under Fed. R. Civ. P. 60(b).” *Pickens v. Howes*, 549 F.3d 377, 383 (6th Cir. 2008) (citing *First Nat. Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343 (6th Cir. 1976)). “Once divested of jurisdiction, the district court may [only] ‘aid the appellate process’ but may not independently grant a Rule 60(b) motion.” *Id.* The only way for this Court to determine the merits of Plaintiffs’ motions would be for it to issue a decision “indicat[ing] that it would grant the motion [and] [the] appellant should then make a motion in [the Sixth Circuit] for a remand of the case so that the district court can

grant relief.” *Id.*

Here, the Court can neither aid in the appellate process nor does it believe the Plaintiffs’ motions would be granted if it were to consider them. Thus, this Court lacks jurisdiction to consider Plaintiffs’ motions and **DENIES** them. (ECF Nos. 42, 50.) The Clerk is **DIRECTED** to remove these pending motions from the Court’s active docket so that the case may be considered on appeal.

IT IS SO ORDERED.

10/18/2022
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE